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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,266	02/26/2004	Guy Hubert Stephane Sylvain Culeron	AA-615M2	5154
27752 7590 09/18/2007 THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION - WEST BLDG. WINTON HILL BUSINESS CENTER - BOX 412 6250 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER DOUYON, LORNA M	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/787,266

Examiner

Lorna M. Douyon

Applicant(s)

CULERON ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 20, 2007 has been entered.
2. Claims 1-9, 11-15 are pending.

Specification

3. The disclosure is objected to because of the following informalities: The amendment to the specification dated July 20, 2007 is not entered. The reference to line numbers on pages 15 and 16 do not match the line numbers of the SUBSTITUE SPECIFICATION submitted on November 13, 2006.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-2, 4, 6-8, 11-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Loth et al. (US Patent No. 5,075,026), hereinafter "Loth" for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Loth teaches an improved all-purpose liquid cleaner in the form of a dilute microemulsion composition containing 1% to 10% by weight of an anionic detergent, 2 to 10% by weight of cosurfactant, 0.4% to 10% by weight of perfume and the balance water, or a concentrated microemulsion composition (which read on protomicroemulsion) containing by weight, 18% to 65% of anionic and nonionic detergent, 2% to 30% of cosurfactant, 10% to 50% of perfume and the balance water which upon dilution with water will yield said dilute o/w microemulsion composition (see abstract; col. 1, lines 5-9). The dilute o/w microemulsion detergent cleaning compositions of the present invention may often include as much as about 0.2% to about 7% by weight, based on the total composition, of terpene solvents introduced thereinto via the perfume component (see col. 5, lines 15-21). In final form, the all-purpose liquids are clear oil-in-water microemulsions (see col. 13, lines 25-27), hence, the perfumes are non-visible droplets having diameters within those recited, and should have water solubility within those recited. The microemulsion is also construed to read on Newtonian fluids. The liquids are readily pourable and exhibit a viscosity in the range of 6 to 60 centipoises (equivalent to 0.06Pas) as measured at 25°C with a Brookfield RVT Viscometer using a #1 spindle rotating at 20 RPM (see col. 13, lines 31-36). When intended for use in the neat form, the liquid compositions can be packaged under

pressure in an aerosol container or in a pump-type sprayer for the so-called spray-and-wipe type of application (see col. 13, lines 45-48). Loth, however, fails to disclose a dispenser which generates a foam having a foam to weight ratio greater than about 2 ml/g.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a dispenser, i.e., pump-type sprayer wherein the foam generated from the dispenser would exhibit a foam having a foam to weight ratio within those recited because similar ingredients with overlapping viscosity and similar dispenser have been utilized.

6. In the alternative, claims 1-2, 4-8, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loth et al. (US Patent No. 5,075,026), hereinafter "Loth" in view of Petri et al. (US Patent No. 6,114,298), hereinafter "Petri".

Loth teaches the features as described above. Loth, however, fails to disclose a foam-generating dispenser which generates a foam having a foam to weight ratio greater than about 2 ml/g, and the incorporation of enzymes into the composition.

Petri, in an analogous art, teaches a microemulsion suitable for disinfecting a surface (see col. 2, lines 48-49), such as dishes (see col. 14, line 59), comprising a surfactant, an aqueous phase comprising a bleach, and droplets dispersed in said aqueous phase, said droplets comprising an essential oil or an active thereof (see abstract; col. 2, lines 48-53). The microemulsion may further comprise a variety of other optional ingredients such as enzymes (see col. 11, lines 19-24). The microemulsions

may be packaged in a variety of suitable detergent packaging known to those skilled in the art, for example, spray dispenser, preferably in a trigger spray dispenser or in a pump spray dispenser, and may include manually operated foam trigger-type dispensers, for example those disclosed in US Pat. No. 4,646,973 (see col. 16, lines 23-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to package the microemulsion of Loth in a foam trigger-type dispenser because Petri teaches in col. 6, lines 23-44 that the microemulsions may be packaged in a variety of suitable detergent packaging known to those skilled in the art, for example, a manually operated foam trigger-type dispensers, and to reasonably expect the foam trigger-type dispenser to generate a foam having a foam to weight ratio as those recited because similar ingredients and similar foam-generating dispenser have been utilized.

In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate enzymes into the composition of Loth because this would provide increased cleaning effectiveness.

7. Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Loth, or Loth in view of Petri, in further view of Fowler et al. (US Patent No. 5,635,469) hereinafter "Fowler".

Loth, or Loth in view of Petri, teaches the features as described above. Loth, or Loth in view of Petri, however, fails to disclose a foaming dispenser with three meshes.

Fowler teaches a similar composition in a nonaerosol dispenser having three meshes (see col. 22, line 59 to col. 23, line 5). Foams containing relatively large diameter bubbles can be refined by forcing said foams through various foam refining means including screens, porous frits, porous media and combination thereof (see col. 19, lines 63-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the dispenser of Fowler having three meshes because such use would provide refined foams as taught by Fowler.

8. Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Loth as applied to the above claims, and further in view of Baeck et al. (US Patent No. 5,679,630), hereinafter "Baeck" for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Loth teaches the features as described above. Loth, however, fails to disclose the incorporation of enzymes into the composition.

Baeck teaches protease enzymes having improved proteolytic activity, substrate specificity, stability and/or enhanced performance (see col. 1, lines 53-58) which can be used in any detergent composition or concentrated detergent compositions where high sudsing and/or good insoluble substrate removal are desired (see col. 21, lines 1-12) such as in cleaning fabrics, cleaning dishes and for personal cleansing (see col. 2, lines 16-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate enzymes into the composition of Loth because this would provide improved proteolytic activity, substrate specificity, stability and/or enhanced performance as taught by Baeck.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loth, or Loth in view of Petri, as applied to the above claims, and further in view of Boehm et al. (US Patent No. 3,422,993), hereinafter "Boehm" for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Loth, or Loth in view of Petri, teaches the features as described above. Loth, or Loth in view of Petri, however, fails to specifically disclose a foam-generating dispenser comprising a sponge.

Boehm teaches a dispensing device and package for common household products for cleaning as well as personal products wherein the dispenser is provided with a porous material, for example the natural sponges (see col. 3, lines 48-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use sponge as the porous media in the dispenser of Loth, or Loth in view of Petri, because it is known from Boehm that the common porous media in foam dispensing devices are sponges.

10. Claims 1-2, 4-8, 11, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petri et al. (US Patent No. 6,114,298), hereinafter "Petri".

Petri teaches a microemulsion suitable for disinfecting a surface (see col. 2, lines 48-49), such as dishes (see col. 14, line 59), comprising a surfactant, an aqueous phase comprising a bleach, and droplets dispersed in said aqueous phase, said droplets comprising an essential oil or an active thereof (see abstract; col. 2, lines 48-53). The aqueous phase of the microemulsions comprises at least water (see col. 8, lines 58-63) and may comprise as a preferred optional ingredient, a hydroxylated solvent (see col. 9, lines 51-53), such as glycol ethers (see col. 10, lines 1-25) and aliphatic alcohols such as ethanol (see col. 10, lines 45-53). The microemulsions may comprise as an optional ingredient, other solvents including terpene (see col. 11, lines 1-13), which terpene read on the "low water-soluble oil having a solubility in water of less than about 5000 ppm as required in claim 14. The microemulsion may further comprise a variety of other optional ingredients such as enzymes (see col. 11, lines 19-24). The microemulsion is also construed to read on Newtonian fluids. The microemulsions may be packaged in a variety of suitable detergent packaging known to those skilled in the art, for example, spray dispenser, preferably in a trigger spray dispenser or in a pump spray dispenser, and may include manually operated foam trigger-type dispensers for example those disclosed in US Pat. No. 4,646,973 (see col. 16, lines 23-44). Petri, however, fails to specifically disclose the microemulsion in a foam trigger-type dispenser which generates a foam having a foam to weight ratio as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to package the microemulsion in a foam trigger-type dispenser

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because Petri teaches in col. 6, lines 23-44 that the microemulsions may be packaged in a variety of suitable detergent packaging known to those skilled in the art, for example, a manually operated foam trigger-type dispensers, and to reasonably expect the foam trigger-type dispenser to generate a foam having a foam to weight ratio as those recited because similar ingredients and similar foam-generating dispenser have been utilized.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petri in view of Fowler et al. (US Patent No. 5,635,469) hereinafter "Fowler".

Petri teaches the features as described above. Petri, however, fails to disclose a foaming dispenser with three meshes.

Fowler teaches a similar composition in a nonaerosol dispenser having three meshes (see col. 22, line 59 to col. 23, line 5). Foams containing relatively large diameter bubbles can be refined by forcing said foams through various foam refining means including screens, porous frits, porous media and combination thereof (see col. 19, lines 63-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the dispenser of Fowler having three meshes because such use would provide refined foams as taught by Fowler.

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12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petri as applied to the above claims, and further in view of Boehm et al. (US Patent No. 3,422,993), hereinafter "Boehm".

Petri teaches the features as described above. Petri, however, fails to specifically disclose a foam-generating dispenser comprising a sponge.

Boehm teaches a dispensing device and package for common household products for cleaning as well as personal products wherein the dispenser is provided with a porous material, for example the natural sponges (see col. 3, lines 48-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use sponge as the porous media in the dispenser of Petri because it is known from Boehm that the common porous media in foam dispensing devices are sponges.

Response to Arguments

13. Applicant's arguments filed July 20, 2007 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Loth, Applicants argue that, as discussed in the June 13, 2006, Dr. Rafael Ortiz Declaration, one of skill in the art would not equate a pump-type dispenser disclosed in Loth with the foam-generating dispenser required by the present claims, rather a pump-type dispenser would be equated to a trigger-type sprayer. Applicant also submit that it cannot be obvious to use the pump-type sprayer of Loth as a foam-generating dispenser if the pump-type sprayer

of Loth is not sufficiently described so as to determine the structure or function of the sprayer. Applicants also argue that the Ortiz Declaration was intended to refute the allegation of the office action that "similar" composition in "similar" dispensers would yield the claimed foam-to-weight ratio, and therefore the Ortiz Declaration is not subject to the requirement that declarations to establish surprising results must provide data commensurate in scope with the claims.

The Examiner respectfully disagrees with the above arguments because, as stated in the previous office action, Loth, in col. 13, lines 45-48, teaches that "...the liquid compositions can be packaged under pressure in an aerosol container or in a pump-type sprayer for the so-called spray-and-wipe type of application". In the showing, Applicants referred to the "pump-type sprayer" of Loth as a "trigger action type sprayer" such as that sold with hard surface cleaning products such as Mr. Clean® Antibacterial MultiSurface (shown in Attachment 1) or similar to the sprayers shown in US 4,527,741 or US 4,155,487 as shown in paragraph 4 of the declaration. However, none of these sprayers are identified or specifically disclosed in Loth to make a meaningful side-by-side comparison. There are many pump-type sprayers, in the market, and such sprayers include foam trigger-type dispensers. Even assuming the formulations (i.e. A and B in the previous Ortiz Declaration) used in the showing were the same formulations, the foam-generating dispenser used in the showing was the dispenser described in Example 1 and Figure 1 which was modified to include a third mesh, and this dispenser is not commensurate in scope with claim 1. Also, the weight ratio in the showing is only

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true for the specific ingredients used, which ingredients were not specified in the showing.

With respect to the obviousness rejection based upon Loth in view of Fowler, Baeck, or Boehm, Applicants argue that Loth does not establish a *prima facie* case of obviousness as discussed above and therefore does not teach or suggest all of the claim limitations of claim 3, 5 or 9, respectively.

The response above apply here as well.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M. Douyon/
Primary Examiner
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